

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31965 of 2020

Arising Out of PS. Case No.-1009 Year-2019 Thana- HAJIPUR District- Vaishali

Nitish Kumar @ Nitesh Kumar, Son of Sri Parmeshwar Prasad @
Parmeshwar Kamti, Resident of Village- Bagmali, Sachi Patti, Sita Chowk,
P.S.- Hajipur Town, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur- Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh- P.P. Incharge

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

3 18-01-2021 Heard learned counsel appearing for the petitioner

as well as learned Public Prosecutor Incharge appearing for the

State.

Petitioner is in custody since 09.11.20219 and
seeks bail in connection with Nagar P. S. Case No.1009 of 2019
registered for the offences punishable under Sections 25(1-b)a,
26, 35 of the Arms Act and Sections 20(b)(II)(B), 29 of the
Narcotic Drugs and Psychotropic Substance (N.D.P.S.) Act.

The accusation against petitioner is that he along
with two others was caught by the police and near-about 16 k.g.
Ganja was recovered from possession of co-accused and one
country-made loaded pistol was recovered from the possession
of the petitioner.

The learned trial Court has reported that the charge



against petitioner has already been framed and the evidence of one prosecution witness has already been recorded. However, in course of hearing, learned counsel for the petitioner informs that up-till-now, five prosecution witnesses have already been examined.

Learned counsel appearing for the petitioner drew my attention towards Paragraphs-47, 48 and 49 of the case diary and submits that the petitioner and some others had gone to attend birthday party from where they were arrested by the police and, as a matter of fact, nothing was recovered from the possession of the petitioner. He further submits that the seizure list witnesses have also not supported the prosecution story rather stated before the Court that the petitioner and others were arrested from the birthday party and the aforesaid seizure list witnesses have not been declared hostile by the prosecution.

On the other hand, learned Additional Public Prosecutor opposed the prayer on the ground of recovery of contraband item from the possession of co-accused and, furthermore, submits that no doubt, seizure list witnesses have not been declared hostile, but due to laxity of Public Prosecutor, the benefit cannot be given to the accused.

Considering the aforesaid facts and circumstances



of the case as well as submissions of the parties and also taking note of this fact that the trial of the petitioner has already commenced and, up-till-now, five prosecution witnesses (as submitted by the learned counsel of the petitioner) has already been examined, in my view, it would not be proper to release the petitioner on bail, for the present and, accordingly, his prayer for bail stands rejected.

However, learned trial Court is directed to expedite the trial of the petitioner and conclude the same as early as possible, preferably within seven months, failing which the petitioner shall renew his prayer for bail before the trial Court itself.

Let a copy of this order be sent to the Superintendent of Police, Hajipur with direction to the Superintendent of Police, Hajipur to ensure the presence of prosecution witnesses before the trial Court, so that trial Court could conclude the trial of the petitioner within the period as fixed by this Court.

(Hemant Kumar Srivastava, J)

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